

**FILED**

OCT 26 2005

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT CURTIS,

<sup>3883</sup>  
No. C-05-~~3883~~ MMC

Plaintiff,

**ORDER DISMISSING PLAINTIFF'S  
COMPLAINT WITH PREJUDICE**

v.

STEVE SHAPIRO, et al.,

Defendants.

Before the Court is the complaint filed September 26, 2005 by plaintiff Robert Curtis, and his application, filed the same date, to proceed in this action in forma pauperis. On September 28, 2005, the Court ordered plaintiff to demonstrate why the instant action should not be dismissed, pursuant to 28 U.S.C. § 1915(e)(2), in light of his filing of numerous actions in the District of Oregon involving the same defendants, and the dismissal of those actions by the Honorable Owen Panner. On October 17, 2005, plaintiff filed a response to the Court's order, including therewith copies of the relevant complaints he filed in the District of Oregon. Having reviewed the papers filed by plaintiff, and for the reasons set forth below, the Court rules as follows.

**BACKGROUND**

Plaintiff Robert Curtis brings this action pro se. Plaintiff alleges that on September 25, 2000, he received notice from defendants that he was in default on a federal

1 construction contract with the Bureau of Land Management, despite the fact that fifteen  
 2 days remained under the contract. (See Compl. ¶ 3.) Plaintiff alleges that defendants  
 3 Steven Shapiro, Elaine Brong, George Mansfield, Mansfield, Inc., Tom Doss, Randy  
 4 Lopez, Insurance Company of the West, and the Bureau of Land Management breached  
 5 the contract by finding plaintiff to be in default without providing adequate notice to plaintiff.  
 6 (See Compl. ¶¶ 3-7, 20, 23.)

7 The Court takes judicial notice of the fact that plaintiff has filed at least seventeen  
 8 actions in the District of Oregon within the past two years, three of which were filed against  
 9 the same set of defendants that he has sued in the instant action. See Curtis v. Brong,  
 10 Case No. C-05-0793 PA (D.Ore. 2005) ("Case No. 05-0793"), Curtis v. Shapiro, Case No.  
 11 05-1040 PA (D.Ore. 2005) ("Case No. 05-1040"), Curtis v. Shapiro, Case No. 05-1270 PA  
 12 (D.Ore. 2005) ("Case No. 05-1270"). Moreover, the complaints filed in those three cases  
 13 are essentially verbatim copies of the complaint filed herein. (Compare Compl. with  
 14 Compl. filed June 2, 2005 in Case No. 05-0793, Compl. filed July 5, 2005 in Case No. 05-  
 15 1040, and Compl. filed August 17, 2005 in Case No. 05-1270.) The only difference  
 16 between plaintiff's current complaint and the three complaints noted above consists of  
 17 irrelevant commentary regarding a recent district court opinion in a case brought in the  
 18 District of Oregon by a plaintiff named Mayfield. (See Compl. ¶¶ 31-37.)

19 In separate orders filed August 30, 2005, Judge Panner dismissed Case No. 05-  
 20 0793, Case No. 05-1040, and Case No. 05-1270. (See Case No. 05-0793, Docket No. 8;  
 21 Case No. 05-1040, Docket No. 9; Case No. 05-1270, Docket No. 6.)<sup>1</sup>

## 22 LEGAL STANDARD

23 Where a party seeks to proceed in forma pauperis, the "court shall dismiss the case  
 24 at any time if the court determines that . . . the action or appeal [ ] (i) is frivolous or  
 25 malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary  
 26 relief against a defendant who is immune from such relief." See 28 U.S.C. § 1915(e)(2)(B).

27  
 28 <sup>1</sup> The docket sheets and dismissal orders in Case No. 05-0793, Case No. 05-1040,  
 and Case No. 05-1270 are attached to the instant order as Exhibit A.

1 A complaint that "merely repeats pending or previously litigated claims" is subject to  
2 dismissal under § 1915. See Cato v. United States, 70 F.3d 1103, 1105 n.1 (9th Cir. 1995)  
3 (internal quotation and citation omitted).

4 **DISCUSSION**

5 Apparently undaunted by Judge Panner's dismissal of essentially identical  
6 complaints filed in the District of Oregon, plaintiff attempts to relitigate his claims in this  
7 District. Plaintiff may not, however, evade the effect of such prior rulings by the simple  
8 expedient of refiling his action in another venue. If plaintiff is of the view that Judge  
9 Panner's rulings are erroneous, his remedy is to file an appeal with the Ninth Circuit Court  
10 of Appeals, not to file a virtually identical complaint in another District.

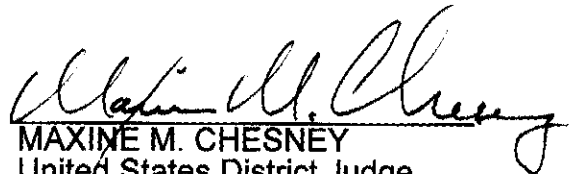
11 Accordingly, the instant complaint will be dismissed with prejudice. See id.

12 **CONCLUSION**

13 For the reasons set forth above, plaintiff's request to proceed in forma pauperis is  
14 DENIED, and the complaint is hereby DISMISSED with prejudice, pursuant to 28 U.S.C.  
15 § 1915(e)(2)(B).

16 **IT IS SO ORDERED.**

17 Dated: October 26, 2005

18   
MAXINE M. CHESNEY  
United States District Judge

## **EXHIBIT A**

IFP, TERMINATED

**U.S. District Court  
District of Oregon (Portland)  
CIVIL DOCKET FOR CASE #: 3:05-cv-00793-PA**

Curtis v. Brong et al  
Assigned to: Judge Owen M. Panner  
Demand: \$100000000  
Cause: 41:251 Public Contracts-Review of Agency Action

Date Filed: 06/02/2005  
Jury Demand: None  
Nature of Suit: 190 Contract: Other  
Jurisdiction: U.S. Government  
Defendant

**Plaintiff**

**Robert Curtis**

represented by **Robert Curtis**  
P.O. Box 4261  
Portland, OR 97208  
503-720-1527  
PRO SE

V.

**Defendant**

**Elaine M. Brong**  
*an individual*

**Defendant**

**Steve Shapiro**  
*an individual*

**Defendant**

**Tom Doss**  
*an individual*

**Defendant**

**Randy Lopez**  
*an individual*

**Defendant**

**Bureau of Land Management**

**Defendant**

**George Mansfield**  
*an individual*

**Defendant**

**Mansfield Inc.**  
*a corporation*

**Defendant**

**Cynthia Vincent**  
*an individual*

**Defendant**

**Insurance Company of the West**  
*a corporation*

Date Filed	#	Docket Text
06/02/2005	<u>1</u>	Application for Leave to Proceed IFP. Filed by Robert Curtis. (Kirk, ) (Entered: 06/06/2005)
06/02/2005	<u>2</u>	Complaint for Breach of Contract. Filed by Robert Curtis against Cynthia Vincent, Insurance Company of the West, Elaine M. Brong, Steve Shapiro, Tom Doss, Randy Lopez, Bureau of Land Management, George Mansfield, Mansfield Inc..(Kirk, ) (Entered: 06/06/2005)
06/02/2005	<u>3</u>	<b>Notice of Case Assignment:</b> This case is assigned to Judge Janice M. Stewart. (Kirk, ) (Entered: 06/06/2005)
06/13/2005	<u>4</u>	Notice of Case Reassignment: This case has been reassigned from Judge Janice M. Stewart to Judge Owen M. Panner. (Kirk, ) (Entered: 06/14/2005)
06/20/2005	<u>5</u>	Request for Reassignment. Filed by Robert Curtis. (dmd, ) (Entered: 06/21/2005)
06/20/2005	<u>6</u>	<b>ORDER:</b> Plaintiff's Request for Reassignment § is denied. Ordered by Judge Owen M. Panner, 6/20/05. (dmd, ) (Entered: 06/21/2005)
08/04/2005	<u>7</u>	Request for Order to Proceed. Filed by Robert Curtis. (ntm, ) (Entered: 08/04/2005)
08/30/2005	<u>8</u>	<b>ORDER: Plaintiff Curtis's application to Proceed Without Prepayment of Fees (docket #1) is granted. This action may go forward without the payment of fees or costs. However, this action is dismissed for the reasons stated above. Signed on 8/30/05 by Judge Owen M. Panner. (ntm, ) (Entered: 08/30/2005)</b>
08/30/2005	<u>9</u>	Judgment. Signed on 8/30/05 by Judge Owen M. Panner. (ntm, ) (Entered: 08/30/2005)
09/01/2005	<u>10</u>	Motion Recusation for Cause. Filed by Robert Curtis. (Kirk, ) (Entered: 09/08/2005)
09/02/2005	<u>11</u>	<b>RECORD OF ORDER:</b> This case is over. Ordered by Judge Owen M. Panner. Denying Motion Recusation for Cause 10. (Kirk, ) (Entered: 09/08/2005)
09/15/2005	<u>12</u>	Motion for Reconsideration of Dismissal with Prejudice. Filed by Robert Curtis. (ntm, ) (Entered: 09/15/2005)

09/16/2005	13	<b>ORDER:</b> Signed on 9/16/05 by Judge Owen M. Panner. Denying Motion for Reconsideration 12. (ntm, ) (Entered: 09/16/2005)
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FILED '05 AUG 30 13:15 USDC-ORP

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ROBERT CURTIS,	)	Civil No. 05-793-PA
	)	
Plaintiff,	)	ORDER
	)	
v.	)	
	)	
ELAINE BRONG, et al.,	)	
	)	
Defendants.	)	

PANNER, Judge.

This is one of, at last count, eighteen actions that Plaintiff Robert Curtis has filed, *pro se* and *in forma pauperis*, in this district since November 2003. Before subjecting the United States Marshal to the expense of serving this Complaint, and the defendants to the cost of responding to it, I have carefully reviewed the Complaint to determine if it states a cognizable claim over which this court may have jurisdiction.

In this latest Complaint, Curtis seeks to litigate various disagreements he had with BLM officials, private contractors, and bonding companies, over his company's performance on a construction contract and the decision to declare his company in default. I previously dismissed similar claims based upon



numerous defects. See Curtis v. Bureau of Land Management, CV 03-1613-PA (April 21, 2004 and May 24, 2004). Those defects have not been cured here.

Conclusion

Plaintiff Curtis's Application to Proceed Without Prepayment of Fees (docket # 1) is granted. This action may go forward without the payment of fees or costs. However, this action is dismissed for the reasons stated above.

IT IS SO ORDERED.

DATED this 30 day of August, 2005.

  
\_\_\_\_\_  
Owen M. Panner  
United States District Judge

IFP, TERMINATED

**U.S. District Court  
District of Oregon (Portland)  
CIVIL DOCKET FOR CASE #: 3:05-cv-01040-PA**

Curtis v. Shapiro et al  
Assigned to: Judge Owen M. Panner  
Demand: \$1000000000000  
Cause: 28:1331 Fed. Question: Breach of Contract

Date Filed: 07/05/2005  
Jury Demand: Plaintiff  
Nature of Suit: 890 Other Statutory  
Actions  
Jurisdiction: U.S. Government  
Defendant

**Plaintiff**

**Robert Curtis**  
*an individual*

represented by **Robert Curtis**  
P.O. Box 4261  
Portland, OR 97208  
PRO SE

V.

**Defendant**

**Steve Shapiro**  
*an individual*

**Defendant**

**Elaine M. Brong**  
*an individual*

**Defendant**

**Tom Doss**  
*an individual*

**Defendant**

**Randy Lopez**  
*an individual*

**Defendant**

**Bureau of Land Management**

**Defendant**

**George Mansfield**  
*an individual*

**Defendant**

**Mansfield Inc.**  
*a corporation*

**Defendant**

**Cynthia Vincent**  
an individual

**Defendant**

**Insurance Company of the West**  
a corporation

**Defendant**

**Judge Panner**  
an individual  
**TERMINATED: 07/11/2005**

Date Filed	#	Docket Text
07/05/2005	<u>1</u>	Application for Leave to Proceed IFP. Filed by Robert Curtis. (Kirk, ) (Entered: 07/06/2005)
07/05/2005	<u>2</u>	Complaint for Breach of a Federal Contract. Filed by Robert Curtis against Cynthia Vincent, Insurance Company of the West, Panner, Steve Shapiro, Elaine M. Brong, Tom Doss, Randy Lopez, Bureau of Land Management, George Mansfield, Mansfield Inc.. (Kirk, ) (Entered: 07/06/2005)
07/05/2005	<u>3</u>	<b>Notice of Case Assignment:</b> This case is assigned to Judge Janice M. Stewart. (Kirk, ) (Entered: 07/06/2005)
07/11/2005	<u>4</u>	Order: This action is Dismissed, with prejudice, as to Judge Panner. This case is reassigned to Judge Panner for all further proceedings. Signed on 7/11/05 by Judge Ancer L. Haggerty. (Kirk, ) (Entered: 07/14/2005)
08/04/2005	<u>5</u>	"Motion of Appeal to Reassignment". Filed by Robert Curtis. (ntm, ) (Entered: 08/08/2005)
08/04/2005	<u>7</u>	Notice of Case Reassignment: This case has been reassigned from Judge Janice M. Stewart to Judge Owen M. Panner. (ntm, ) (Entered: 08/08/2005)
08/08/2005	<u>6</u>	"Motion of Appeal to Judge Haggerty" Filed by Robert Curtis. (ntm, ) (Entered: 08/08/2005)
08/25/2005	<u>8</u>	<b>ORDER:</b> Signed on 8/25/05 by Judge Michael R Hogan. Plaintiff's motions <u>5</u> and <u>6</u> are construed as motions for reconsideration of Judge Haggerty's Order <u>4</u> and are allowed. After reconsideration of the entire record before the court, Judge Haggerty's Order <u>4</u> is affirmed. (slh, ) (Entered: 08/26/2005)
08/30/2005	<u>9</u>	<b>ORDER: Plaintiff's Application to Proceed Without Prepayment of Fees (#1) is granted. This action may go forward without the payment of fees or costs. However, this action is dismissed for the reasons stated above. Signed on 8/30/05 by Judge Owen M. Panner.</b>

		(ntm, ) (Entered: 08/30/2005)
08/30/2005	10	Judgment. Signed on 8/30/05 by Judge Owen M. Panner. (ntm, ) (Entered: 08/30/2005)
09/15/2005	11	Motion for Reconsideration of Dismissal with Prejudice. Filed by Robert Curtis. (ntm, ) (Entered: 09/15/2005)
09/16/2005	12	<b>ORDER:</b> Signed on 9/16/05 by Judge Owen M. Panner. Denying Motion for Reconsideration 11. (ntm, ) (Entered: 09/16/2005)

<b>PACER Service Center</b>			
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FILED 05 AUG 30 13:10 USC-DRP

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ROBERT CURTIS,	)	Civil No. 05-1040-PA
	)	
Plaintiff,	)	ORDER
	)	
v.	)	
	)	
STEVE SHAPIRO, et al.,	)	
	)	
Defendants.	)	

PANNER, Judge.

This is one of, at last count, eighteen actions that Plaintiff Robert Curtis has filed, *pro se* and *in forma pauperis*, in this district since November 2003. Before subjecting the United States Marshal to the expense of serving this Complaint, and the defendants to the cost of responding to it, I have carefully reviewed the Complaint to determine if it states a cognizable claim over which this court may have jurisdiction.

The Complaint in this case is virtually identical to the Complaint in Curtis v. Brong, CV 05-793-PA, with two minor differences. The order of the first two defendants has been inverted in the caption, a distinction of no consequence. Curtis also lists me as an additional defendant in a transparent effort

to prevent me from presiding over his cases, complaining that I have dismissed fifteen prior *pro se* cases that he has filed.

The matter was referred to Chief Judge Haggerty, who ruled that the Complaint did not state a legally cognizable claim against me. Chief Judge Haggerty dismissed me as a defendant, and transferred this case to me for all further proceedings.

Curtis v. Shapiro, CV 05-1040-PA (Order dated July 11, 2005).

Curtis then sought reconsideration of those rulings. On August 25, 2005, Judge Hogan affirmed Judge Haggerty's order.

Accordingly, the matter is now properly before me. There is no substantive difference between the Complaint in this case, and the Complaint in Curtis v. Brong, CV 05-793-PA. As such, this action is dismissed as duplicative. Plaintiff may not litigate identical actions in the same court against the same parties for the same relief.

Conclusion

Plaintiff's Application to Proceed Without Prepayment of Fees (# 1) is granted. This action may go forward without the payment of fees or costs. However, this action is dismissed for the reasons stated above.

IT IS SO ORDERED.

DATED this 30 day of August, 2005.

  
Owen M. Panner  
United States District Judge

IFP, INTRADIST, TERMINATED

**U.S. District Court  
District of Oregon (Portland)  
CIVIL DOCKET FOR CASE #: 3:05-cv-01270-PA**

Curtis v. Shapiro et al  
Assigned to: Judge Owen M. Panner  
Cause: 00:0000 Cause Code Unknown

Date Filed: 08/17/2005  
Jury Demand: None  
Nature of Suit: 190 Contract: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Robert Curtis**  
*an individual*

represented by **Robert Curtis**  
P.O. Box 4261  
Portland, OR 97208  
PRO SE

V.

**Defendant**

**Steve Shapiro**  
*an individual*

**Defendant**

**Elaine M. Brong**  
*an individual*

**Defendant**

**Tom Doss**  
*an individual*

**Defendant**

**Randy Lopez**  
*an individual*

**Defendant**

**Bureau of Land Management**  
*an corporation*

**Defendant**

**George Mansfield**  
*an individual*

**Defendant**

**Mansfield, Inc.**  
*an corporation*

**Defendant**

**Cynthia Vincent**  
*an individual*

**Defendant**

**Insurance Company of the West**  
*an corporation*

**Defendant**

**Judge Panner**  
*an individual*  
 TERMINATED: 08/25/2005

Date Filed	#	Docket Text
08/16/2005	<u>1</u>	Application for Leave to Proceed IFP. Filed by Robert Curtis. (ecp, ) (Entered: 08/17/2005)
08/16/2005	<u>2</u>	Complaint. Breach of a Federal Contract. Filed by Robert Curtis against Cynthia Vincent, Insurance Company of the West, Judge Panner, Steve Shapiro, Elaine M. Brong, Tom Doss, Randy Lopez, Bureau of Land Management, George Mansfield, Mansfield, Inc.. (ecp, ) (Entered: 08/17/2005)
08/16/2005	<u>3</u>	Discovery and Pretrial Scheduling Order and Notice of Case Assignment to the Honorable Dennis J. Hubel. Discovery to be completed by 12/14/2005. Joint Alternate Dispute Resolution Report due by 1/13/2006. Pretrial Order due by 1/13/2006. Ordered by Judge Dennis J. Hubel. (ecp, ) (Entered: 08/17/2005)
08/25/2005	<u>4</u>	<b>ORDER:</b> Signed on 8/25/05 by Judge Michael R Hogan. Granting Plaintiff's Motion for Leave to Proceed in Forma Pauperis <u>1</u> . This action is dismissed, with prejudice as to Judge Panner. The remaining allegations apparently involve the same contract at issue in plaintiff's other cases presently pending before Judge Panner. Therefore, this case is hereby reassigned to Judge Panner for all futher proceedings. (sln, ) (Entered: 08/26/2005)
08/26/2005	<u>5</u>	Notice of Case Reassignment: This case has been reassigned to Judge Michael R Hogan and transferred to the Eugene Division. (mja, ) (Entered: 08/26/2005)
08/30/2005	<u>6</u>	Order: The Application to Proceed Without Prepayment of Fees (#1) is granted. However, this action is dismissed for the reasons stated above.. Signed on 8/30/05 by Judge Owen M. Panner. (ntm, ) (Entered: 08/30/2005)
08/30/2005	<u>7</u>	Judgment. Signed on 8/30/05 by Judge Owen M. Panner. (ntm, ) (Entered: 08/30/2005)
09/01/2005	<u>8</u>	Order - regarding Case Reassignment Notice 5 for Administrative Correction of the Record. A Clerical error has been discovered in the case



		record. In accordance with Fed. R. Civ. P. 60(a), the Clerk is directed to make the following administrative corrections to the record and to notify all parties accordingly. The Notice of Case Reassignment #5 dated 8/26/05 is corrected to reflect this case was reassigned to Judge Panner not to Judge Hogan. (See Judge Hogan's Order dated 8/25/05 doc #4) (lf, ) (Entered: 09/01/2005)
09/01/2005	9	Notice of Case Reassignment: This case has been reassigned to Judge Owen M. Panner and transferred to the Portland Division. (Meyer, Craig) (Entered: 09/07/2005)
09/15/2005	10	Motion for Reconsideration of Dismissal with Prejudice. Filed by Robert Curtis. (ntm, ) (Entered: 09/15/2005)
09/16/2005	11	<b>ORDER:</b> Signed on 9/16/05 by Judge Owen M. Panner. Denying Motion for Reconsideration 10. (ntm, ) (Entered: 09/16/2005)

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FILED 05 AUG 30 13:09 SDC:APP

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ROBERT CURTIS,	)	Civil No. 05-1270-PA
	)	
Plaintiff,	)	ORDER
	)	
v.	)	
	)	
STEVE SHAPIRO, et al.,	)	
	)	
Defendants.	)	

PANNER, Judge.

This is one of, at last count, eighteen actions that Plaintiff Robert Curtis has filed, *pro se* and *in forma pauperis*, in this district since November 2003. Before subjecting the United States Marshal to the expense of serving this Complaint, and the defendants to the cost of responding to it, I have carefully reviewed the Complaint to determine if it states a cognizable claim over which this court may have jurisdiction.

The Complaint in this case is virtually identical to the Complaint in Curtis v. Brong, CV 05-793-PA, with two minor differences. The order of the first two defendants has been inverted in the caption, a distinction of no consequence. Curtis also lists me as an additional defendant in a transparent effort

to prevent me from presiding over his cases, complaining that I have dismissed fifteen prior pro se cases that he has filed.

The Complaint in this action is also substantively identical to the Complaint in Curtis v. Shapiro, CV 05-1040-PA, except for the addition of two cryptic references to "justifiable homicide." Since the Complaint purports to concern the breach of a construction contract, the alterations are not material.

The matter was referred to Judge Hogan, who ruled that the Complaint did not state a legally cognizable claim against me. Judge Hogan dismissed me as a defendant, and transferred this case to me for all further proceedings. Curtis v. Shapiro, CV 05-1270-PA (Order dated August 25, 2005).

Accordingly, the matter is now properly before me. There is no substantive difference between the Complaint in this case, and the Complaints in Curtis v. Brong, CV 05-793-PA, and Curtis v. Shapiro, CV 05-1040-PA. As such, this action is dismissed as duplicative. Plaintiff may not litigate identical actions in the same court against the same parties for the same relief.

#### Conclusion

The Application to Proceed Without Prepayment of Fees (# 1) is granted. However, this action is dismissed for the reasons stated above.

IT IS SO ORDERED.

DATED this 30 day of August, 2005.



Owen M. Panner  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

Curtis,

Plaintiff,

v.

Shapiro et al,

Defendant.

---

Case Number: CV05-03883 MMC

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 26, 2005, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Robert Curtis  
P.O. Box 4261  
Portland, OR 97208

Dated: October 26, 2005

Richard W. Wieking, Clerk



By: Tracy Lucero, Deputy Clerk